

110TH CONGRESS
1ST SESSION

H. R. 2930

To amend section 202 of the Housing Act of 1959 to improve the program under such section for supportive housing for the elderly, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 2007

Mr. MAHONEY of Florida introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend section 202 of the Housing Act of 1959 to improve the program under such section for supportive housing for the elderly, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Section 202 Supportive Housing for the Elderly Act of
6 2007”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—NEW CONSTRUCTION REFORMS

- Sec. 101. Project rental assistance.
- Sec. 102. Selection criteria.
- Sec. 103. Development cost limitations.
- Sec. 104. Owner deposits.
- Sec. 105. Definition of private nonprofit organization.

TITLE II—REFINANCING

- Sec. 201. Approval of prepayment of debt.
- Sec. 202. Sources of refinancing.
- Sec. 203. Use of unexpended amounts.
- Sec. 204. Use of project residual receipts.
- Sec. 205. Additional provisions.

TITLE III—ASSISTED LIVING FACILITIES

- Sec. 301. Definition of assisted living facility.
- Sec. 302. Monthly assistance payment under rental assistance.

TITLE I—NEW CONSTRUCTION REFORMS

SEC. 101. PROJECT RENTAL ASSISTANCE.

Paragraph (2) of section 202(c) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(2)) is amended—

(1) by inserting after “ASSISTANCE.—” the following: “(A) INITIAL PROJECT RENTAL ASSISTANCE CONTRACT.—”;

(2) in the last sentence, by striking “may” and inserting “shall”; and

(3) by adding at the end the following new subparagraph:

“(B) RENEWAL OF AND INCREASES IN CONTRACT AMOUNTS.—

“(i) EXPIRATION OF CONTRACT TERM.—

Upon the expiration of each contract term, the

Secretary shall adjust the annual contract amount to provide for reasonable project costs, and any increases, including adequate reserves, supportive services, and service coordinators, except that any contract amounts not used by a project during a contract term shall not be available for such adjustments upon renewal.

“(ii) EMERGENCY SITUATIONS.—In the event of emergency situations that are outside the control of the owner, the Secretary shall increase the annual contract amount, subject to reasonable review and limitations as the Secretary shall provide.”.

SEC. 102. SELECTION CRITERIA.

Subsection (f) of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q(f)) is amended—

(1) by striking “SELECTION CRITERIA.—” and inserting “INITIAL SELECTION CRITERIA AND PROCESSING.—(1) SELECTION CRITERIA.—”;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively; and

(3) by adding at the end the following new paragraph:

“(2) DELEGATED PROCESSING.—

1 “(A) In issuing a capital advance under this
2 section, the Secretary shall delegate review and proc-
3 essing of such selected capital advance projects to a
4 State or local housing agency that—

5 “(i) is in geographic proximity to the prop-
6 erty;

7 “(ii) has demonstrated experience in and
8 capacity for underwriting multifamily housing
9 loans that provide housing and supportive serv-
10 ices;

11 “(iii) may or may not be providing low-in-
12 come housing tax credits in combination with
13 the capital advance under this section, and

14 “(iv) agrees to issue a firm commitment
15 within 12 months of delegation.

16 “(B) An agency to which review and processing
17 is delegated pursuant to subparagraph (A) may as-
18 sess a reasonable fee which shall be included in the
19 capital advance amounts and may recommend
20 project rental assistance amounts in excess of those
21 initially awarded by the Secretary.

22 “(C) Under such delegated system, the Sec-
23 retary shall retain the authority to approve rents
24 and development costs and to execute a capital ad-
25 vance within 90 days of receipt of the commitment

1 from the State or local agency. The Secretary shall
 2 provide to such agency and the project sponsor, in
 3 writing, the reasons for any reduction in capital ad-
 4 vance amounts or project rental assistance and such
 5 reductions shall be subject to appeal.”.

6 **SEC. 103. DEVELOPMENT COST LIMITATIONS.**

7 Section 202(h)(1) of the Housing Act of 1959 (12
 8 U.S.C. 1701q(h)(1)) is amended, in the matter preceding
 9 subparagraph (A), by inserting “reasonable” before “de-
 10 velopment cost limitations”.

11 **SEC. 104. OWNER DEPOSITS.**

12 Section 202(j)(3)(A) of the Housing Act of 1959 (12
 13 U.S.C. 1701q(j)(3)(A)) is amended by inserting after the
 14 period at the end the following: “Such amount shall be
 15 used only to cover operating deficits during the first three
 16 years of operations and shall not be used to cover con-
 17 struction shortfalls or inadequate initial project rental as-
 18 sistance amounts.”.

19 **SEC. 105. DEFINITION OF PRIVATE NONPROFIT ORGANIZA-**
 20 **TION.**

21 Subparagraph (B) of section 202(k)(4) of the Hous-
 22 ing Act of 1959 (12 U.S.C. 1701q(k)(4)(B)) is amended
 23 by inserting before the semicolon the following: “; except
 24 that, in the case of any national organization that is the
 25 owner of multiple housing projects assisted under this sec-

tion, the organization may comply with clause (i) of this subparagraph by having a local advisory board to the governing board of the organization the membership which is selected in the manner required under clause (i)”).

TITLE II—REFINANCING

SEC. 201. APPROVAL OF PREPAYMENT OF DEBT.

Subsection (a) of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note) is amended—

(1) in the matter preceding paragraph (1), by inserting “, for which the Secretary’s consent to prepayment is required,” after “Act)”;

(2) in paragraph (1)—

(A) by inserting “project-based” before “rental assistance payments contract”;

(B) by inserting “project-based” before “rental housing assistance programs”;

(C) by inserting “, or any successor project-based rental assistance program,” after “1701s))”; and

(D) by inserting before the semicolon the following; “, except that if, such project-based rental assistance is no longer available to the project as a result of insufficient amounts of appropriated funds for such purpose, or is no

1 longer available on terms that would provide
2 the project with income equivalent to the
3 project-based rental assistance, the project-
4 based rental assistance contract shall be
5 deemed terminated, including all obligations
6 and restrictions thereunder, and the project
7 owner may charge tenants rent sufficient for
8 the project owner to meet debt service payments
9 and operating cost requirements approved by
10 the Secretary. Such contract termination shall
11 be an eligibility event for purposes of section
12 8(t) of the United States Housing Act of 1937
13 (42 U.S.C. 1437f(t)) and the tenants of such
14 project shall be eligible for enhanced vouchers
15 in accordance with such section.”; and

16 (3) in paragraph (2)—

17 (A) by inserting “(A)” before “a lower”;

18 and

19 (B) by inserting “, or (B) a transaction in
20 which the project owner will address the phys-
21 ical needs of the project” before the period at
22 the end.

1 **SEC. 202. SOURCES OF REFINANCING.**

2 The last sentence of section 811(b) of the American
3 Homeownership and Economic Opportunity Act of 2000
4 (12 U.S.C. 1701q note) is amended—

5 (1) by inserting after “National Housing Act,”
6 the following: “or approving the standards used by
7 authorized lenders to underwrite a loan refinanced
8 with risk sharing as provided by section 542 of the
9 Housing and Community Development Act of 1992
10 (12 U.S.C.1701 note),”; and

11 (2) by striking “may” and inserting “shall”.

12 **SEC. 203. USE OF UNEXPENDED AMOUNTS.**

13 Subsection (c) of section 811 of the American Home-
14 ownership and Economic Opportunity Act of 2000 (12
15 U.S.C. 1701q note) is amended—

16 (1) in the matter preceding paragraph (1), by
17 inserting after “tenants,” the following: “or that
18 furthers the mission of the private nonprofit organi-
19 zation project owner, private nonprofit organization
20 project sponsor, or private nonprofit organization
21 project developer, relating to housing and related so-
22 cial services,”;

23 (2) in paragraph (1), by striking “not more
24 than 15 percent of”;

25 (3) in paragraph (2), by inserting before the
26 semicolon the following; “, including reducing the

1 number of units and reconfiguring units that are
2 functionally obsolete, unmarketable, or not economi-
3 cally viable”;

4 (4) in paragraph (3), by striking “or” at the
5 end;

6 (5) in paragraph (4) by striking “and” at the
7 end and inserting a semicolon; and

8 (6) by adding at the end the following new
9 paragraphs:

10 “(5) the payment to the project owner, sponsor,
11 or third party developer of a developer’s fee in an
12 amount not to exceed—

13 “(A) in the case of a project refinanced
14 through a State low income housing tax credit
15 program, the fee permitted by the low income
16 housing tax credit program as calculated by the
17 State program as a percentage of acceptable de-
18 velopment cost as defined by that State pro-
19 gram; or

20 “(B) in the case of a project refinanced
21 through any other source of refinancing, 15
22 percent of the acceptable development cost; and

23 “(6) the payment of equity, if any, to—

24 “(A) in the case of a sale, to the seller or
25 the sponsor of the seller, in an amount equal to

1 the lesser of the purchase price or the appraised
2 value of the property, as each is reduced by the
3 cost of prepaying any outstanding indebtedness
4 on the property and transaction costs of the
5 sale; or

6 “(B) in the case of a refinancing without
7 the transfer of the property, to the project
8 owner or the project sponsor, in an amount
9 equal to the difference between the appraised
10 value of the property less the outstanding in-
11 debtedness and total acceptable development
12 cost.

13 For purposes of paragraphs (5)(B) and (6)(B), the term
14 “acceptable development cost” shall include, as applicable,
15 the cost of acquisition, rehabilitation, loan prepayment,
16 initial reserve deposits, and transaction costs.”.

17 **SEC. 204. USE OF PROJECT RESIDUAL RECEIPTS.**

18 Paragraph (1) of section 811(d) of the American
19 Homeownership and Economic Opportunity Act of 2000
20 (12 U.S.C. 1701q note) is amended—

21 (1) by striking “not more than 15 percent of”;

22 and

23 (2) by inserting before the period at the end the
24 following: “or other purposes approved by the Sec-
25 retary”.

1 **SEC. 205. ADDITIONAL PROVISIONS.**

2 Section 811 of the American Homeownership and
3 Economic Opportunity Act of 2000 (12 U.S.C. 1701q
4 note) is amended by adding at the end the following new
5 subsections:

6 “(e) SENIOR PRESERVATION RENTAL ASSISTANCE
7 CONTRACTS.—Notwithstanding any other provision of
8 law, in connection with a prepayment plan for a project
9 approved under subsection (a) by the Secretary or as oth-
10 erwise approved by the Secretary, to prevent displacement
11 of elderly residents of the project in the case of refinancing
12 or recapitalization and to further preservation and afford-
13 ability of such project, at the election of the private non-
14 profit organization owner of the project, the Secretary
15 shall provide project-based rental assistance for the
16 project under a senior preservation rental assistance con-
17 tract, as follows:

18 “(1) Assistance under the contract shall be
19 made available to the private nonprofit organization
20 owner—

21 “(A) for a term of at least 20 years, sub-
22 ject to annual appropriations, and

23 “(B) under the same rules governing
24 project-based rental assistance made available
25 under section 8 of the Housing Act of 1937.

1 “(2) Any projects for which a senior preserva-
2 tion rental assistance contract is provided shall be
3 subject to a use agreement to ensure continued
4 project affordability having a term of the longer of
5 (A) the term of the senior preservation rental assist-
6 ance contract, or (B) such term as is required by the
7 new financing.

8 “(f) MORTGAGE SALE DEMONSTRATION.—The Sec-
9 retary may sell mortgages associated with loans made
10 under section 202 of the Housing Act of 1959 (as in effect
11 before the enactment of the Cranston-Gonzalez National
12 Affordable Housing Act) in accordance with the terms for
13 sales of subsidized loans on multifamily housing projects
14 under section 203 of the Housing and Community Devel-
15 opment Amendments of 1978 (12 U.S.C. 1701z–11). The
16 Secretary shall carry out a demonstration program, in not
17 more than three States, to sell portfolios of such mort-
18 gages to State housing finance agencies for a price not
19 to exceed the unpaid principal balances of such mortgages
20 and otherwise in accordance with the requirements of such
21 section 203.

22 “(g) SUBORDINATION OR ASSUMPTION OF EXISTING
23 DEBT.—In lieu of prepayment under this section of the
24 indebtedness with respect to a project, the Secretary may
25 approve—

1 “(1) in connection with new financing for the
2 project, the subordination of the loan for the project
3 under section 202 of the Housing Act of 1959 (as
4 in effect before the enactment of the Cranston-Gon-
5 zalez National Affordable Housing Act) and the con-
6 tinued subordination of any other existing subordi-
7 nate debt previously approved by the Secretary to
8 facilitate preservation of the project as affordable
9 housing, or

10 “(2) the assumption (which may include the
11 subordination described in paragraph (1)) of the
12 loan for the project under such section 202 in con-
13 nection with the transfer of the project with such a
14 loan to a private nonprofit organization.

15 “(h) FLEXIBLE SUBSIDY DEBT.—The Secretary
16 shall waive the requirement that debt for a project pursu-
17 ant to the flexible subsidy program under section 201 of
18 the Housing and Community Development Amendments
19 of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection
20 with a prepayment, refinancing, or transfer under this sec-
21 tion of a project if such waiver is necessary for the finan-
22 cial feasibility of the transaction and is consistent with
23 the long-term preservation of the project as affordable
24 housing.

1 “(i) PREPAYMENT WHEN SECRETARY’S CONSENT
 2 NOT REQUIRED.—In connection with the prepayment
 3 under this section of a loan for which the Secretary’s con-
 4 sent to prepayment is not required, at the project owner’s
 5 election—

6 “(1) all tenants of the project shall be eligible
 7 for enhanced vouchers in accordance with section
 8 8(t) of the United States Housing Act of 1937 (42
 9 U.S.C. 1437f(t)); or

10 “(2) if the project will continue to be owned by
 11 a private nonprofit organization owner, such private
 12 nonprofit organization owner may enter into a senior
 13 preservation rental assistance contract with the Sec-
 14 retary in accordance with subsection (e).

15 “(j) DEFINITION OF PRIVATE NONPROFIT ORGANI-
 16 ZATION.—For purposes of this section, the term ‘private
 17 nonprofit organization’ has the meaning given such term
 18 in section 202(k) of the Housing Act of 1959 (12 U.S.C.
 19 1701q(k)).”.

20 **TITLE III—ASSISTED LIVING** 21 **FACILITIES**

22 **SEC. 301. DEFINITION OF ASSISTED LIVING FACILITY.**

23 Section 202b(g) of the Housing Act of 1959 (12
 24 U.S.C. 1701q–2(g)) is amended by striking paragraph (1)
 25 and inserting the following new paragraph:

1 “(1) the term ‘assisted living facility’ means a
2 facility that—

3 “(A) is owned by a private nonprofit orga-
4 nization; and

5 “(B)(i) is licensed and regulated by the
6 State (or if there is no State law providing for
7 such licensing and regulation by the State, by
8 the municipality or other political subdivision in
9 which the facility is located); or

10 “(ii)(I) makes available to residents at the
11 resident’s request or choice supportive services
12 to assist the residents in carrying out the activi-
13 ties of daily living, such as bathing, dressing,
14 eating, getting in and out of bed or chairs,
15 walking, going outdoors, toileting, laundry,
16 home management, preparing meals, shopping
17 for personal items, obtaining and taking medi-
18 cation, managing money, using the telephone,
19 or performing light or heavy housework, and
20 which may make available to residents home
21 health care service, such as nursing and ther-
22 apy, and certain health related services; and

23 “(II) provides separate dwelling units for
24 residents, each of which may contain a full
25 kitchen and bathroom and which includes com-

1 mon rooms and other facilities appropriate for
2 the provision of supportive services to the resi-
3 dents of the facility; and”.

4 **SEC. 302. MONTHLY ASSISTANCE PAYMENT UNDER RENTAL**
5 **ASSISTANCE.**

6 Clause (iii) of section 8(o)(18)(B) of the United
7 States Housing Act of 1937 (42 U.S.C.
8 1437f(o)(18)(B)(iii)) is amended by inserting before the
9 period at the end the following: “, except that a family
10 may be required at the time the family initially receives
11 such assistance to pay rent in an amount exceeding 40
12 percent of the monthly adjusted income of the family by
13 such an amount or percentage as the Secretary deems ap-
14 propriate.”.

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